

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARWIN SULLIVAN,

Plaintiff,

Case Number: 00-72638

v.

COMMISSIONER OF SOCIAL SECURITY,

JUDGE PAUL D. BORMAN
UNITED STATES DISTRICT COURT

Defendant.

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**ORDER DENYING: (1) PLAINTIFF'S MOTION TO SET ASIDE THE REPORT AND
RECOMMENDATION (DOCK. NO. 40); AND
(2) PLAINTIFF'S MOTION TO RE-OPEN CASE NUMBER 00-72638 (DOCK. NO. 43)**

Now before the Court is Plaintiff's Motion to Set Aside the Report and Recommendation (Dock. No. 40), and Plaintiff's Motion to Re-open Case Number 00-72638 (Dock. No. 43). On March 29, 2004, the Court adopted the Magistrate Judge's Report and Recommendation granting Defendant's Motion for Summary Judgment (Dock. No. 38), and issued a judgment in favor of Defendant (Dock. No. 39). Subsequently, Plaintiff filed his Motion to Set Aside the Report and Recommendation on May 10, 2004, and his Motion to Re-open the case on October 24, 2005.

The Court construes both motions before the Court to be motions for reconsideration. Pursuant to Local Rule 7.1(g)(3), a motion for rehearing or reconsideration may be filed within ten days after the entry of the decision to which it objects. *See also* Fed. R. Civ. P. 59(e) (allowing a party to file a Motion to Alter or Amend Judgment within ten days of entry of the Judgment). A motion for reconsideration will be granted if the moving party demonstrates that the court's order contains "a palpable defect by which the court and parties have been misled,"

and that “correcting the defect will result in a different disposition of the case.” L.R. 7.1(g)(3).

A “palpable defect” is a defect which is obvious, clear, unmistakable, manifest or plain. *Mktg. Displays, Inc. v. Traffix Devices, Inc.*, 971 F. Supp. 262, 278 (E.D. Mich. 1997) (internal citation omitted). Neither of Plaintiff’s motion for reconsideration were timely filed, nor does Plaintiff’s motions identify a palpable defect by which the Court and parties have been misled.

Accordingly, for these reasons, and the reasons stated in the Magistrate Judge’s Report and Recommendation, the Court:

- (1) DENIES Plaintiff’s Motion to Set Aside the Report and Recommendation; and
- (2) DENIES Plaintiff’s Motion to Re-open Case Number 00-72638.

SO ORDERED.

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: March 2, 2007

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on March 2, 2007.

s/Denise Goodine
Case Manager